

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DARWIN J. STEWART and
DANIEL L. CHELOHA,

Defendants.

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8:16CR150

ORDER

This matter is before the court on the motion to continue by defendant Daniel J. Cheloha (Cheloha) (Filing No. 64). Cheloha seeks a continuance of the trial scheduled for January 3, 2017. Cheloha's counsel represents that government's counsel has no objection to the motion. Cheloha has filed an affidavit wherein he agrees to the motion and understands time will be excluded under the Speedy Trial Act to accommodate his motion (Filing No. 65). Upon consideration, the motion will be granted.

IT IS ORDERED:

1. Cheloha's motion to continue trial (Filing No. 64) is granted.
2. Trial of this matter **as to both defendants** is re-scheduled for **February 27, 2017**, before Senior Judge Joseph F. Bataillon and a jury. The ends of justice have been served by granting such motion and outweigh the interests of the public and the defendants in a speedy trial. The additional **time** arising as a result of the granting of the motion, i.e., the time between **December 21, 2016, and February 27, 2017**, shall be deemed **excludable** time in any computation of time under the requirement of the Speedy Trial Act for the reason that defendants' counsel require additional time to adequately prepare the case. The failure to grant additional time might result in a miscarriage of justice. 18 U.S.C. § 3161(h)(7)(A) & (B).

DATED this 21st day of December, 2016.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge